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FROM SLAVERY TO

MASS INCARCERATION

Rethinking the 'race question' in the US

NOT ONE BUT SEVERAL 'peculiar institutions' have success-
ively operated to define, confine, and control African-
Americans in the history of the United States. The first is
chattel slavery as the pivot of the plantation economy and
inceptive matrix of racial division from the colonial era to the Civil War.
The second is the *Jim Crow system* of legally enforced discrimination
and segregation from cradle to grave that anchored the predominantly
agrarian society of the South from the close of Reconstruction to the
Civil Rights revolution which toppled it a full century after abolition.
America's third special device for containing the descendants of slaves
in the Northern industrial metropolis is the *ghetto*, corresponding to
the conjoint urbanization and proletarianization of African-Americans
from the Great Migration of 1914–30 to the 1960s, when it was ren-
dered partially obsolete by the concurrent transformation of economy
and state and by the mounting protest of blacks against continued caste
exclusion, climaxing with the explosive urban riots chronicled in the
Kerner Commission Report.[1]

The fourth, I contend here, is the novel institutional complex formed by
the *remnants of the dark ghetto and the carceral apparatus* with which it
has become joined by a linked relationship of structural symbiosis and
functional surrogacy. This suggests that slavery and mass imprisonment
are genealogically linked and that one cannot understand the latter—its

timing, composition, and smooth onset as well as the quiet ignorance or acceptance of its deleterious effects on those it affects—without returning to the former as historic starting point and functional analogue.

Viewed against the backdrop of the full historical trajectory of racial domination in the United States (summed up in Table 1), the glaring and growing 'disproportionality' in incarceration that has afflicted African-Americans over the past three decades can be understood as the result of the 'extra-penological' functions that the prison system has come to shoulder in the wake of the crisis of the ghetto and of the continuing stigma that afflicts the descendants of slaves by virtue of their membership in a group constitutively deprived of ethnic honour (Max Weber's *Massehre*).

TABLE 1   *The four 'peculiar institutions' and their basis*

Institution	Form of labour	Core of economy	Dominant social type
Slavery (1619–1865)	unfree fixed labour	Plantation	slave
Jim Crow (South, 1865–1965)	free fixed labour	Agrarian and extractive	sharecropper
Ghetto (North, 1915–68)	free mobile labour	Segmented industrial manufacturing	menial worker
Hyperghetto & Prison (1968–)	fixed surplus labour	Polarized postindustrial services	welfare recipient & criminal

[1] See, respectively: Kenneth Stampp, *The Peculiar Institution: Slavery in the Ante-Bellum South*, New York [1956] 1989; Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America*, Cambridge, MA 1998; C. Vann Woodward, *The Strange Career of Jim Crow*, Oxford [1957] 1989; Leon Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow*, New York 1998; Allan Spear, *Black Chicago: The Making of a Negro Ghetto, 1890–1920*, Chicago 1968; Kerner Commission, *1968 Report of the National Advisory Commission on Civil Disorders*, New York [1968] 1988.

Racial disproportionality in US imprisonment

Three brute facts stand out and give a measure of the grotesquely disproportionate impact of mass incarceration on African-Americans. First, the ethnic composition of the inmate population of the United States has been virtually inverted *in the last half-century, going from about 70% (Anglo) white at the mid-century point to less than 30% today. Contrary to common perception, the predominance of blacks behind bars is not a long-standing pattern but a novel and recent phenomenon, with 1988 as the turning point: it is the year when then-Vice-President George Bush ran his infamous 'Willie Horton' advertisement during the presidential campaign, featuring sinister images of the black rapist of a white woman as emblematic of the contemporary 'crime problem,' as well as the year after which African-American men supply a majority of prison admissions for the country as a whole.*[1]

Next, whereas the difference between arrest rates for whites and blacks has been stable, with the percentage of blacks oscillating between 29% and 33% of all arrestees for property crimes and between 44 and 47% for violent offences between 1976 and 1992,[2] *the white–black incarceration gap has grown rapidly in the past quarter-century, jumping from 1 for 5 in 1985 to about 1 for 8 today. This trend is all the more striking for occurring during a period when significant numbers of African-Americans have entered into and risen through the ranks of the police, the courts, and the corrections administration and when the more overt forms of racial discrimination that were commonplace in them into the seventies have been greatly reduced, if not stamped out.*[3]

Lastly, the lifelong cumulative probability of 'doing time' in a state or federal penitentiary based on the imprisonment rates of the early 90s is 4% for whites, 16% for Latinos and a staggering 29% for blacks.[4] *Given the class gradient of incarceration, this figure suggests that* a majority of African-Americans of (sub)proletarian status are facing a prison term *of one or several years (and in many cases several terms) at some point in their adult life, with all the family, occupational and legal disruptions this entails, including the curtailment of social entitlements and civil rights and the temporary or permanent loss of the right to vote. As of 1997, nearly one black man in six nationwide was excluded from the ballot box due to a felony conviction and more than one fifth of them were prohibited from casting a vote in Alabama, Connecticut, Florida, Iowa, Mississippi, New Mexico, Texas, Washington, and Wyoming.*[5] *A short thirty-five years after the Civil Rights movement finally gained African-Americans effective access to the voting booth, a full century after Abolition, this right is being taken back by the penal system via legal dispositions that are of dubious constitutional validity and violate in many cases (notably lifetime disenfranchisement) international conventions on human rights ratified by the United States.*

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[1] *David Anderson*, Crime and the Politics of Hysteria, *New York 1995.*

[2] *Michael Tonry*, Malign Neglect, *Oxford 1995, p. 64.*

[3] *Alfred Blumstein, 'Racial Disproportionality of US Prisons Revisited',* University of Colorado Law Review, *vol. 64, 1993, pp. 743–60; but see the powerful counter-argument offered by David Cole,* No Equal Justice, *New York 1999.*

[4] *Thomas Bonczar and Allen Beck, 'Lifetime Likelihood of Going to State or Federal Prison',* Bureau of Justice Statistics Special Report, *Washington, BJS, March 1997, p. 1; for a state-by-state analysis, see Marc Mauer, 'Racial Disparities in Prison Getting Worse in the 1990s',* Overcrowded Times, *vol. 8, no. 1, February 1997, pp. 9–13.*

[5] *John Hagan and Ronit Dinowitzer, 'Collateral Consequences of Imprisonment for Children, Communities, and Prisoners', in Michael Tonry and Joan Petersilia, eds,* Prisons, *Chicago 1999, pp. 121–62; and Jamie Fellner and Marc Mauer,* Losing the Vote: the Impact of Felony Disenfranchisement in the US, *Washington 1998.*

Not crime, but the need to shore up an eroding caste cleavage, along with buttressing the emergent regime of desocialized wage labour to which most blacks are fated by virtue of their lack of marketable cultural capital, and which the most deprived among them resist by escaping into the illegal street economy, is the main impetus behind the stupendous expansion of America's penal state in the post-Keynesian age and its de facto policy of 'carceral affirmative action' towards African-Americans.[2]

Labour extraction and caste division

America's first three 'peculiar institutions', slavery, Jim Crow, and the ghetto, have this in common: they were all instruments for the conjoint *extraction of labour* and *social ostracization* of an outcast group deemed unassimilable by virtue of the indelible threefold stigma it carries. African-Americans arrived under bondage in the land of freedom. They were accordingly deprived of the right to vote in the self-appointed cradle of democracy (until 1965 for residents of the Southern states). And, for lack of a recognizable national affiliation, they were shorn of ethnic honour, which implies that, rather than simply standing at the bottom of the rank ordering of group prestige in American society, they were barred from it *ab initio*.[3]

1. *Slavery (1619–1865)*. Slavery is a highly malleable and versatile institution that can be harnessed to a variety of purposes, but in the Americas property-in-person was geared primarily to the provision and control of

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[2] See my 'Crime et châtiment en Amérique de Nixon à Clinton', *Archives de politique criminelle*, vol. 20, pp. 123–38; and *Les Prisons de la misère*, Paris 1999, pp. 71–94 (English trans. *Prisons of Poverty*, Minneapolis 2002).

[3] 'Among the groups commonly considered unassimilable, the Negro people is by far the largest. The Negroes do not, like the Japanese and the Chinese, have a politically organized nation and an accepted culture of their own outside of America to fall back upon. Unlike the Oriental, there attaches to the Negro an historical memory of slavery and inferiority. It is more difficult for them to answer prejudice with prejudice and, as the Orientals may do, to consider themselves and their history superior to the white Americans and their recent cultural achievements. The Negroes do not have these fortifications of self-respect. They are more helplessly *imprisoned* as a subordinate caste, a caste of people deemed to be lacking a cultural past and assumed to be incapable of a cultural future.' Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy*, New York [1944] 1962, p. 54; emphasis added.

labour.[4] Its introduction in the Chesapeake, Middle Atlantic and Low Country regions of the United States in the 17th century served to recruit and regulate the unfree workforce forcibly imported from Africa and the West Indies to cater to their tobacco, rice and mixed-farming economy. (Indentured labourers from Europe and native Indians were not enslaved because of their greater capacity to resist and because their servitude would have impeded future immigration as well as rapidly exhausted a limited supply of labour.) By the close of the 18th century, slavery had become self-reproducing and expanded to the fertile crescent of the Southern interior, running from South Carolina to Louisiana, where it supplied a highly profitable organization of labour for cotton production and the basis for a plantation society distinctive for its feudal-like culture, politics, and psychology.[5]

An *unforeseen by-product* of the systematic enslavement and dehumanization of Africans and their descendants on North American soil was the creation of a racial caste line separating what would later become labelled 'blacks' and 'whites.' As Barbara Fields has shown, the American ideology of 'race', as putative biological division anchored by the inflexible application of the 'one-drop rule' together with the principle of hypodescent, crystallized to resolve the blatant contradiction between human bondage and democracy.[6] The religious and pseudo-scientific belief in racial difference reconciled the brute fact of unfree labor with the doctrine of liberty premised on natural rights by reducing the slave to live property—three-fifths of a man according the sacred scriptures of the Constitution.

2. *Jim Crow (South, 1865–1965)*. Racial division was a consequence, not a precondition, of US slavery, but once it was instituted it became detached from its initial function and acquired a social potency of its own. Emancipation thus created a double dilemma for Southern white society: how to secure anew the labour of former slaves, without whom the region's economy would collapse, and how to sustain the cardinal

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[4] Seymour Drescher and Stanley Engerman, *A Historical Guide to World Slavery*, Oxford 1998.
[5] Gavin Wright, *The Political Economy of the Cotton South*, New York 1978; Peter Kolchin*, American Slavery: 1619–1877*, New York 1993.
[6] 'Slavery, Race and Ideology in the United States of America', NLR 1/181, May–June 1990.

status distinction between whites and 'persons of colour,' i.e, the social and symbolic distance needed to prevent the odium of 'amalgamation' with a group considered inferior, rootless and vile. After a protracted interregnum lasting into the 1890s, during which early white hysteria gave way to partial if inconsistent relaxation of ethnoracial strictures, when blacks were allowed to vote, to hold public office, and even to mix with whites to a degree in keeping with the intergroup intimacy fostered by slavery, the solution came in the form of the 'Jim Crow' regime.[7] It consisted of an ensemble of social and legal codes that prescribed the complete separation of the 'races' and sharply circumscribed the life chances of African-Americans while binding them to whites in a relation of suffusive submission backed by legal coercion and terroristic violence.

Imported from the North where it had been experimented within cities, this regime stipulated that blacks travel in separate trains, streetcars and waiting rooms; that they reside in the 'darktown' slums and be educated in separate schools (if at all); that they patronize separate service establishments and use their own bathrooms and water fountains; that they pray in separate churches, entertain themselves in separate clubs and sit in separate 'nigger galleries' in theatres; that they receive medical care in separate hospitals and exclusively from 'coloured' staff; and that they be incarcerated in separate cells and buried in separate cemeteries. Most crucial of all, laws joined mores in condemning the 'unspeakable crime' of interracial marriage, cohabitation or mere sexual congress so as to uphold the 'supreme law of self-preservation' of the races and the myth of innate white superiority. Through continued white ownership of the land and the generalization of sharecropping and debt peonage, the plantation system remained virtually untouched as former slaves became a 'dependent, propertyless peasantry, nominally free, but ensnared by poverty, ignorance, and the new servitude of tenantry'.[8] While sharecropping tied African-American labour to the farm, a rigid etiquette ensured that whites and blacks never interacted on a plane of equality, not even on the running track or in a boxing

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[7] The term comes from a song-and-dance routine, 'Jumping Jim Crow', first performed in 1828 by Thomas Dartmouth Rice, a popular travelling actor considered the father of the 'black-and-white' minstrel show; see Woodward, *Strange Career of Jim Crow*.

[8] Neil McMillen, *Dark Journey: Black Mississippians in the Age of Jim Crow*, Urbana 1990.

ring—a Birmingham ordinance of 1930 made it unlawful for them to play at checkers and dominoes with one another.[9] Whenever the 'colour line' was breached or even brushed, a torrent of violence was unleashed in the form of periodic pogroms, Ku Klux Klan and vigilante raids, public floggings, mob killings and lynchings, this ritual caste murder designed to keep 'uppity niggers' in their appointed place. All this was made possible by the swift and near-complete disenfranchisement of blacks as well as by the enforcement of 'Negro law' by courts which granted the latter fewer effective legal safeguards than slaves had enjoyed earlier by dint of being both property and persons.

3.   *Ghetto (North, 1915–68)*. The sheer brutality of caste oppression in the South, the decline of cotton agriculture due to floods and the boll weevil, and the pressing shortage of labour in Northern factories caused by the outbreak of World War 1 created the impetus for African-Americans to emigrate en masse to the booming industrial centers of the Midwest and Northeast (over 1.5 million left in 1910–30, followed by another 3 million in 1940–60). But as migrants from Mississippi to the Carolinas flocked to the Northern metropolis, what they discovered there was not the 'promised land' of equality and full citizenship but another system of racial enclosure, the ghetto, which, though it was less rigid and fearsome than the one they had fled, was no less encompassing and constricting. To be sure, greater freedom to come and go in public places and to consume in regular commercial establishments, the disappearance of the humiliating signs pointing to 'Coloured' here and 'White' there, renewed access to the ballot box and protection from the courts, the possibility of limited economic advancement, release from personal subservience and from the dread of omnipresent white violence, all made life in the urban North incomparably preferable to continued peonage in the rural South: it was 'better to be a lamppost in Chicago than President of Dixie,' as migrants famously put it to Richard Wright. But restrictive covenants forced African-Americans to congregate in a 'Black Belt' which quickly became overcrowded, underserved and blighted by crime, disease, and dilapidation, while the 'job ceiling' restricted them to the most hazardous, menial, and underpaid occupations in both industry and personal

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[9] The Mississippi legislature went so far as to outlaw the advocacy of social equality between blacks and whites. A law of 1920 subjected to a fine of 500 dollars and 6 months' jail anyone 'found guilty of printing, publishing or circulating arguments in favour of social equality or intermarriage': McMillen, *Dark Journey*, pp. 8–9.

services. As for 'social equality', understood as the possibility of 'becoming members of white cliques, churches and voluntary associations, or marrying into their families', it was firmly and definitively denied.[10]

Blacks had entered the Fordist industrial economy, to which they contributed a vital source of abundant and cheap labour willing to ride along its cycles of boom and bust. Yet they remained locked in a precarious position of structural economic marginality and consigned to a secluded and dependent microcosm, complete with its own internal division of labour, social stratification, and agencies of collective voice and symbolic representation: a 'city within the city' moored in a complexus of black churches and press, businesses and professional practices, fraternal lodges and communal associations that provided both a 'milieu for Negro Americans in which they [could] imbue their lives with meaning' and a bulwark 'to "protect" white America from "social contact" with Negroes'.[11] Continued caste hostility from without and renewed ethnic affinity from within converged to create the ghetto as the third vehicle to extract black labour while keeping black bodies at a safe distance, to the material and symbolic benefit of white society.

The era of the ghetto as paramount mechanism of ethnoracial domination had opened with the urban riots of 1917–19 (in East St. Louis, Chicago, Longview, Houston, etc.). It closed with a wave of clashes, looting and burning that rocked hundreds of American cities from coast to coast, from the Watts uprising of 1965 to the riots of rage and grief triggered by the assassination of Martin Luther King in the summer of 1968. Indeed, by the end of the sixties, the ghetto was well on its way to becoming functionally obsolete or, to be more precise, increasingly *unsuited* to accomplishing the twofold task historically entrusted to America's 'peculiar institutions.' On the side of *labour extraction*, the shift from an urban industrial economy to a suburban service economy and the accompanying dualization of the occupational structure, along with the upsurge of working-class immigration from Mexico, the Caribbean and Asia, meant that large segments of the workforce contained in the 'Black Belts' of the

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[10] St. Clair Drake and Horace Cayton, *Black Metropolis: A Study of Negro Life in a Northern City*, New York [1945] 1962, vol. 1, pp. 112–28.
[11] *Black Metropolis*, vol. 2, p. xiv.

Northern metropolis were simply no longer needed. On the side of *ethnoracial closure*, the decades-long mobilization of African-Americans against caste rule finally succeeded, in the propitious political conjuncture of crisis stemming from the Vietnam war and assorted social unrest, in forcing the federal state to dismantle the legal machinery of caste exclusion. Having secured voting and civil rights, blacks were at long last full citizens who would no longer brook being shunted off into the separate and inferior world of the ghetto.[12]

But while whites begrudgingly accepted 'integration' in principle, in practice they strove to maintain an unbridgeable social and symbolic gulf with their compatriots of African descent. They abandoned public schools, shunned public space, and fled to the suburbs in their millions to avoid mixing and ward off the spectre of 'social equality' in the city. They then turned against the welfare state and those social programmes upon which the collective advancement of blacks was most dependent. *A contrario*, they extended enthusiastic support for the 'law-and-order' policies that vowed to firmly repress urban disorders connately perceived as racial threats.[13] Such policies pointed to yet another special institution capable of confining and controlling if not the entire African-American community, at least its most disruptive, disreputable and dangerous members: the prison.

The ghetto as prison, the prison as ghetto

To grasp the deep kinship between ghetto and prison, which helps explain how the structural decline and functional redundancy of the one led to the unexpected ascent and astonishing growth of the other during the last quarter-century, it is necessary first to characterize accurately the

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[12] This was the meaning of Martin Luther King's Freedom Campaign in the summer of 1966 in Chicago: it sought to apply to the ghetto the techniques of collective mobilization and civil disobedience successfully used in the attack on Jim Crow in the South, to reveal and protest against the life to which blacks were condemned in the Northern metropolis. The campaign to make Chicago an open city was swiftly crushed by formidable repression, spearheaded by 4,000 National Guards. Stephen Oakes, *Let the Trumpet Sound: A Life of Martin Luther King*, New York 1982.

[13] Thomas Byrne Edsall and Mary Edsall, *Chain Reaction: The Impact of Race, Rights and Taxes on American Politics*, New York 1991; Jill Quadagno, *The Colour of Welfare: How Racism Undermined the War on Poverty*, Oxford 1994; Katherine Beckett and Theodore Sasson, *The Politics of Injustice*, Thousand Oaks 2000, pp. 49–74.

ghetto.[14] But here we come upon the troublesome fact that the social sciences have failed to develop a robust *analytic concept* of the ghetto; instead they have been content to borrow the *folk concept* current in political and popular discourse at each epoch. This has caused a good deal of confusion, as the ghetto has been successively conflated with—and mistaken for—a segregated district, an ethnic neighbourhood, a territory of intense poverty or housing blight and even, with the rise of the policy myth of the 'underclass' in the more recent period, a mere accumulation of urban pathologies and antisocial behaviours.[15]

A comparative and historical sociology of the reserved Jewish quarters in the cities of Renaissance Europe and of America's 'Bronzeville' in the Fordist metropolis of the twentieth century reveals that a ghetto is essentially a sociospatial device that enables a dominant status group in an urban setting simultaneously to ostracize and exploit a subordinate group endowed with negative symbolic capital, that is, an incarnate property perceived to make its contact degrading by virtue of what Max Weber calls 'negative social estimation of honour.' Put differently, it is a relation of ethnoracial control and closure built out of four elements: (i) stigma; (ii) constraint; (iii) territorial confinement; and (iv) institutional encasement. The resulting formation is a distinct *space*, containing an ethnically homogeneous *population*, which finds itself forced to develop within it a set of interlinked *institutions* that duplicates the organizational framework of the broader society from which that group is banished and supplies the scaffoldings for the construction of its specific 'style of life' and social strategies. This parallel institutional nexus affords the subordinate group a measure of protection, autonomy

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[14] By 1975 the carceral population of the US had been steadily declining for nearly two decades to reach a low of 380,000 inmates. The leading analysts of the penal question, from David Rothman to Michel Foucault to Alfred Blumstein, were then unanimous in predicting the imminent marginalization of the prison as an institution of social control or, at worst, the stabilization of penal confinement at a historically moderate level. No one foresaw the runaway growth that has quadrupled that figure to over two million in 2000 even as crime levels remained stagnant.

[15] See my 'Gutting the Ghetto' for a historical recapitulation of the meanings of 'ghetto' in American society and social science, leading to a diagnosis of the curious expurgation of race from a concept expressly forged to denote a mechanism of ethnoracial domination, which ties it to the changing concerns of state elites over the nexus of poverty and ethnicity in the metropolis. In Malcolm Cross and Robert Moore, eds, *Globalization and the New City*, Basingstoke 2000.

and dignity, but at the cost of locking it in a relationship of structural subordination and dependency.

The ghetto, in short, operates as an *ethnoracial prison*: it encages a dishonoured category and severely curtails the life chances of its members in support of the 'monopolization of ideal and material goods or opportunities' by the dominant status group dwelling on its outskirts.[16] Recall that the ghettos of early modern Europe were typically delimited by high walls with one or more gates which were locked at night and within which Jews had to return before sunset on pain of severe punishment, and that their perimeter was subjected to continuous monitoring by external authorities.[17] Note next the structural and functional homologies with the prison conceptualized as a *judicial ghetto*: a jail or penitentiary is in effect a reserved *space* which serves to forcibly confine a legally denigrated *population* and wherein this latter evolves its distinctive *institutions*, culture and sullied identity. It is thus formed of the same four fundamental constituents—stigma, coercion, physical enclosure and organizational parallelism and insulation—that make up a ghetto, and for similar purposes.

Much as the ghetto protects the city's residents from the pollution of intercourse with the tainted but necessary bodies of an outcast group in the manner of an 'urban condom,' as Richard Sennett vividly put it in his depiction of the 'fear of touching' in sixteenth-century Venice,[18] the prison cleanses the social body from the temporary blemish of those of its members who have committed crimes, that is, following Durkheim, individuals who have violated the sociomoral integrity of the collectivity by infringing on 'definite and strong states of the collective conscience.' Students of the 'inmate society' from Donald Clemmer and Gresham Sykes to James Jacobs and John Irwin have noted time and again how the incarcerated develop their own argot roles, exchange systems and normative standards, whether as an adaptive response to the 'pains of imprisonment' or through selective importation of criminal and lower-class values from the outside, much like residents of the ghetto have elaborated or intensified a 'separate sub-culture' to

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[16] Max Weber, *Economy and Society*, Berkeley 1978, p. 935.
[17] Louis Wirth, *The Ghetto*, Chicago 1928.
[18] *Flesh and Stone: The Body and the City in Western Civilization*, New York 1994.

counter their sociosymbolic immurement.[19] As for the secondary aim of the ghetto, to facilitate exploitation of the interned category, it was central to the 'house of correction' which is the direct historical predecessor of the modern prison and it has periodically played a major role in the evolution and operation of the latter.[20] Finally, both prison and ghetto are authority structures saddled with inherently dubious or problematic legitimacy whose maintenance is ensured by intermittent recourse to external force.

By the end of the seventies, then, as the racial and class backlash against the democratic advances won by the social movements of the preceding decade got into full swing, the prison abruptly returned to the forefront of American society and offered itself as the universal and simplex solution to all manners of social problems. Chief among these problems was the 'breakdown' of social order in the 'inner city,' which is scholarly and policy euphemism for the patent incapacity of the dark ghetto to contain a dishonoured and supernumerary population henceforth viewed not only as deviant and devious but as downright dangerous in light of the violent urban upheavals of mid-sixties. As the walls of the ghetto shook and threatened to crumble, the walls of the prison were correspondingly extended, enlarged and fortified, and 'confinement of differentiation', aimed at keeping a group apart (the etymological meaning of *segregare*), gained primacy over 'confinement of safety' and 'confinement of authority'—to use the distinction proposed by French sociologist Claude Faugeron.[21] Soon the black ghetto, converted into an instrument of naked exclusion by the concurrent retrenchment of wage labour and social protection, and further destabilized by the increasing penetration of the penal arm of the state, became bound to the jail and prison system by a triple relationship of functional equivalency, structural homology and cultural syncretism, such that they now constitute a single *carceral continuum* which entraps a redundant population of

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[19] *Black Metropolis*, vol. 2, p. xiii.
[20] Describing London's Bridewell, the *Zuchthaus* of Amsterdam and the Paris *Hôpital général*, Georg Rusche and Otto Kirschheimer show that the main aim of the house of correction was 'to make the labour power of the unwilling people socially useful' by forcing them to work under close supervision in the hope that, once released, 'they would voluntarily swell the labour market'. *Punishment and Social Structure,* New York 1939, p. 42; for the modern prison, see Pieter Spierenburg, *The Prison Experience*, New Brunswick, NJ 1991.
[21] 'La dérive pénale', *Esprit* 215, October 1995.

younger black men (and increasingly women) who circulate in closed circuit between its two poles in a self-perpetuating cycle of social and legal marginality with devastating personal and social consequences.[22]

Now, the carceral system had already functioned as an *ancillary* institution for caste preservation and labour control in America during one previous transition between regimes of racial domination, that between slavery and Jim Crow in the South. On the morrow of Emancipation, Southern prisons turned black overnight as 'thousands of ex-slaves were being arrested, tried, and convicted for acts that in the past had been dealt with by the master alone' and for refusing to behave as menials and follow the demeaning rules of racial etiquette. Soon thereafter, the former confederate states introduced 'convict leasing' as a response to the moral panic of 'Negro crime' that presented the double advantage of generating prodigious funds for the state coffers and furnishing abundant bound labour to till the fields, build the levees, lay down the railroads, clean the swamps, and dig the mines of the region under murderous conditions.[23] Indeed, penal labour, in the form of the convict-lease and its heir, the chain gang, played a major role in the economic advancement of the New South during the Progressive era, as it 'reconciled modernization with the continuation of racial domination'.[24]

What makes the racial intercession of the carceral system different today is that, unlike slavery, Jim Crow and the ghetto of mid-century, it does not carry out a positive economic mission of recruitment and disciplining of the workforce: it serves only to warehouse the precarious and deproletarianized fractions of the black working class, be it that they cannot find employment owing to a combination of skills deficit,

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[22] A fuller discussion of this 'deadly symbiosis' between ghetto and prison in the post-Civil Rights era is provided in my 'Deadly Symbiosis', *Punishment and Society*, vol. 3, no. 1, pp. 95–134.

[23] This is not a figure of speech: the annual mortality rate for convicts reached 16 per cent in Mississippi in the 1880s, where 'not a single leased convict ever lived long enough to serve a sentence of ten years or more'. Hundreds of black children, many as young as six years old, were leased by the state for the benefit of planters, businessmen and financers, to toil in conditions that even some patrician Southerners found shameful and 'a stain upon our manhood'. See David Oshinsky, *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice*, New York 1996, p. 45.

[24] Alex Lichtenstein, *Twice the Work of Free Labour: The Political Economy of Convict Labour in the New South*, London and New York 1999, p. 195.

employer discrimination and competition from immigrants, or that they refuse to submit to the indignity of substandard work in the peripheral sectors of the service economy—what ghetto residents commonly label 'slave jobs.' But there is presently mounting financial and ideological pressure, as well as renewed political interest, to relax restrictions on penal labour so as to (re)introduce mass unskilled work in private enterprises inside American prisons: putting most inmates to work would help lower the country's 'carceral bill' as well as effectively extend to the inmate poor the workfare requirements now imposed upon the free poor as a requirement of citizenship.[25] The next decade will tell whether the prison remains an appendage to the dark ghetto or supersedes it to go it alone and become America's fourth 'peculiar institution.'

Race making and social death

Slavery, the Jim Crow system and the ghetto are 'race making' institutions, which is to say that they do not simply process an ethnoracial division that would somehow exist outside of and independently from them. Rather, each *produces* (or co-produces) this division (anew) out of inherited demarcations and disparities of group power and inscribes it at every epoch in a distinctive constellation of material and symbolic forms. And all have consistently racialized the arbitrary boundary setting African-Americans apart from all others in the United States by actively denying its cultural origin in history, ascribing it instead to the fictitious necessity of biology.

The highly particular conception of 'race' that America has invented, virtually unique in the world for its rigidity and consequentiality, is a direct outcome of the momentous collision between slavery and democracy as modes of organization of social life *after* bondage had been established as the major form of labour conscription and control in a underpopulated colony home to a precapitalist system of production. The Jim Crow regime reworked the racialized boundary between slave and free into a rigid caste separation between 'whites' and 'Negros'—comprising all persons of known African ancestry, no matter how

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[25] See my *Les Prisons de la misère*, Paris 1999, pp. 71–94. Expert testimony presented to the House Committees on the Judiciary and Crime during discussion of the Prison Industries Reform Act of 1998 explicitly linked welfare reform to the need to expand private prison labour.

minimal—that infected every crevice of the postbellum social system in the South. The ghetto, in turn, imprinted this dichotomy onto the spatial makeup and institutional schemas of the industrial metropolis. So much so that, in the wake of the 'urban riots' of the sixties, which in truth were uprisings against intersecting caste and class subordination, 'urban' and black became near-synonymous in policy making as well as everyday parlance. And the 'crisis' of the city came to stand for the enduring contradiction between the individualistic and competitive tenor of American life, on the one hand, and the continued seclusion of African-Americans from it, on the other.[26]

As a new century dawns, it is up to the fourth 'peculiar institution' born of the adjoining of the hyperghetto with the carceral system to remould the social meaning and significance of 'race' in accordance with the dictates of the deregulated economy and the post-Keynesian state. Now, the penal apparatus has long served as accessory to ethnoracial domination by helping to stabilize a regime under attack or bridge the hiatus between successive regimes: thus the 'Black Codes' of Reconstruction served to keep African-American labour in place following the demise of slavery while the criminalization of civil rights protests in the South in the 1950s aimed to retard the agony of Jim Crow. But the role of the carceral institution today is different in that, for the first time in US history, it has been elevated to the rank of main machine for 'race making.'

Among the manifold effects of the wedding of ghetto and prison into an extended carceral mesh, perhaps the most consequential is the practical revivification and *official solidification of the centuries-old association of*

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[26] Two indicators suffice to spotlight the enduring ostracization of African-Americans in US society. They are the only group to be 'hypersegregated', with spatial isolation shifting from the macro-level of state and county to the micro-level of municipality and neighbourhood so as to minimize contacts with whites throughout the century. See Douglas Massey and Nancy Denton, *American Apartheid,* Cambridge 1993; Douglas Massey and Zoltan Hajnal, 'The Changing Geographic Structure of Black–White Segregation in the United States', *Social Science Quarterly*, vol. 76, no. 3, September 1995, pp. 527–42. They remain barred from exogamy to a degree unknown to any other community, notwithstanding the recent growth of so-called multiracial families, with fewer than 3 per cent of black women marrying out compared to a majority of Hispanic and Asian women. Kim DaCosta, 'Remaking the Colour Line: Social Bases and Implications of the Multiracial Movement,' Berkeley, Ph.D Dissertation.

blackness within criminality and devious violence. Along with the return of Lombroso-style mythologies about criminal atavism and the wide diffusion of bestial metaphors in the journalistic and political field (where mentions of 'superpredators', 'wolf-packs', 'animals' and the like are commonplace), the massive over-incarceration of blacks has supplied a powerful common-sense warrant for 'using colour as a proxy for dangerousness'.[27] In recent years, the courts have consistently authorized the police to employ race as 'a negative signal of increased risk of criminality' and legal scholars have rushed to endorse it as 'a rational adaptation to the demographics of crime', made salient and verified, as it were, by the blackening of the prison population, even though such practice entails major inconsistencies from the standpoint of constitutional law. Throughout the urban criminal justice system, the formula 'Young + Black + Male' is now openly equated with 'probable cause' justifying the arrest, questioning, bodily search and detention of millions of African-American males every year.

In the era of racially targeted 'law-and-order' policies and their sociological pendant, racially skewed mass imprisonment, the reigning public image of the criminal is not just that of 'a *monstruum*—a being whose features are inherently different from ours', but that of a *black* monster, as young African-American men from the 'inner city' have come to personify the explosive mix of moral degeneracy and mayhem. The conflation of blackness and crime in collective representation and government policy (the other side of this equation being the conflation of blackness and welfare) thus re-activates 'race' by giving a legitimate outlet to the expression of anti-black animus in the form of the public vituperation of criminals and prisoners. As writer John Edgar Wideman points out:

> It's respectable to tar and feather criminals, to advocate locking them up and throwing away the key. It's not racist to be against crime, even though the archetypal criminal in the media and the public imagination almost always wears 'Willie' Horton's face. Gradually, 'urban' and 'ghetto' have become codewords for terrible places where only blacks reside. Prison is rapidly being re-lexified in the same segregated fashion.[28]

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[27] Randall Kennedy, *Race, Crime and the Law*, New York 1997, pp. 136–67.
[28] John Edgar Wideman, 'Doing Time, Marking Race', *The Nation*, 30 October 1995.

Indeed, when 'to be a man of colour of a certain economic class and milieu is equivalent in the public eye to being a criminal', being processed by the penal system is tantamount to being made black, and 'doing time' behind bars is at the same time 'marking race'.[29]

By assuming a central role in the post-Keynesian government of race and poverty, at the crossroads of the deregulated low-wage labour market, a revamped 'welfare-workfare' apparatus designed to support casual employment, and the vestiges of the ghetto, the overgrown carceral system of the United States has become a major engine of symbolic production in its own right. It is not only the pre-eminent institution for signifying and enforcing blackness, much as slavery was during the first three centuries of US history. Just as bondage effected the 'social death' of imported African captives and their descendants on American soil, mass incarceration also induces the civic death of those it ensnares by extruding them from the social compact.[30] Today's inmates are thus the target of a threefold movement of exclusionary closure:

(i)   Prisoners are denied access to valued *cultural capital*: just as university credentials are becoming a prerequisite for employment in the (semi)protected sector of the labour market, inmates have been expelled from higher education by being made ineligible for Pell Grants, starting with drug offenders in 1988, continuing with convicts sentenced to death or lifelong imprisonment without the possibility of parole in 1992, and ending with all remaining state and federal prisoners in 1994. This expulsion was voted by Congress for the sole purpose of accentuating the symbolic divide between criminals and 'law-abiding citizens' in spite of overwhelming evidence that prison educational programmes drastically cut recidivism as well as help to maintain carceral order.[31]

(ii) Prisoners are systematically excluded from *social redistribution* and public aid in an age when work insecurity makes access to such programmes more vital than ever for those dwelling in the lower

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[29] 'Doing Time, Marking Race'.
[30] Orlando Patterson, *Slavery as Social Death*, Cambridge, MA 1982.
[31] Josh Page, 'Eliminating the Enemy: A Cultural Analysis of the Exclusion of Prisoners from Higher Education', MA paper, Department of Sociology, University of California, Berkeley.

regions of social space. Laws deny welfare payments, veterans' benefits and food stamps to anyone in detention for more than 60 days. The Work Opportunity and Personal Responsibility Act of 1996 further banishes most ex-convicts from Medicaid, public housing, Section 8 vouchers and related forms of assistance. In the spring of 1998, President Clinton denounced as intolerable 'fraud and abuse' perpetrated against 'working families' who 'play by the rules' the fact that some prisoners (or their households) continued to get public payments due to lax bureaucratic enforcement of these prohibitions. And he proudly launched 'unprecedented federal, state, and local cooperation as well as new, innovative incentive programs' using the latest 'high-tech tools to weed out any inmate' who still received benefits (see opposite), including the disbursement of bounties to counties who promptly turn in identifying information on their jail detainees to the Social Security administration.

(iii) Convicts are banned from *political participation* via 'criminal disenfranchisement' practised on a scale and with a vigour unimagined in any other country. All but four members of the Union deny the vote to mentally competent adults held in detention facilities; 39 states forbid convicts placed on probation from exercising their political rights and 32 states also interdict parolees. In 14 states, ex-felons are barred from voting even when they are no longer under criminal justice supervision—for life in ten of these states. The result is that nearly 4 million Americans have temporarily or permanently lost the ability to cast a ballot, including 1.47 million who are not behind bars and another 1.39 million who served their sentence in full.[32] A mere quarter of a century after acceding to full voting rights, one black man in seven nationwide is banned from the electoral booth through penal disenfranchisement and seven states permanently deny the vote to more than one fourth of their black male residents.

Through this *triple exclusion*, the prison and the criminal justice system more broadly contribute to the ongoing *reconstruction of the 'imagined community' of Americans* around the polar opposition between praiseworthy 'working families'—implicitly white, suburban, and deserving—and

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[32] Jamie Fellner and Marc Mauer, *Losing the Vote*.

Clinton proudly 'cracks down' on inmate 'fraud and abuse'

Good morning. This morning I'd like to talk to you about one way we are working to restore Americans' faith in our national government, in our efforts to shore up Social Security and other vital benefits by cracking down on fraud and abuse.

For 60 years, Social Security has meant more than just an ID number on a tax form, even more than a monthly check in the mail. It has reflected our deepest values, the duties we owe to our parents, to each other, to our children and grandchildren, to those who misfortune strikes, to those who deserve a decent old age, to our ideal of one America.

That's why I was so disturbed some time ago to discover that many prisoners who are, by law, barred from receiving most of these federal benefits, were actually collecting Social Security checks while locked up behind bars. Inmates were, in effect, under our law, getting away with fraud, primarily because it was so difficult to gather up-to-date information on criminals in our nation's more than 3,500 jails. But thanks to an unprecedented federal, state, and local cooperation, as well as new, innovative incentive programs, we're now finishing the job.

The Social Security Administration has produced a continually updated database that now covers more than 99 percent of all prisoners, the most comprehensive list of our inmate population in history. And more important, the Social Security Administration is using the list to great effect. By the end of last year we had suspended benefits to more than 70,000 prisoners. That means that over the next five years we will save taxpayers $2.5 billion—that's $2.5 billion—that will go toward serving our hard-working families.

Now we're going to build on the Social Security Administration's success in saving taxpayers from inmate fraud. In just a few moments I will sign an executive memorandum that directs the Departments of Labor, Veterans Affairs, Justice, Education and Agriculture to use the Security Administration's expertise and high-tech tools to enhance their own efforts to weed out any inmate who is receiving veteran's benefits, food stamps, or any other form of federal benefit denied by law.

We expect that these comprehensive sweeps by our agencies will save taxpayers millions upon millions of more dollars, in addition to the billions already saved from our crackdown on Social Security fraud. We will ensure that those who have committed crimes against society will not have an opportunity to commit crimes against taxpayers as well.

The American people have a right to expect that their national government is always on guard against every type of waste, fraud and abuse. It is our duty to use every power and every tool to eliminate that kind of fraud. We owe it to the American people to ensure that their Social Security contributions and other tax dollars are benefiting only those who worked hard, played by the rules, and are, by law, eligible to receive them. That's exactly what we're trying to do.

Thanks for listening.

President Clinton's Saturday Radio Address, 25 April 1998.
Available on the White House website.

the despicable 'underclass' of criminals, loafers, and leeches, a two-headed antisocial hydra personified by the dissolute teenage 'welfare mother' on the female side and the dangerous street 'gang banger' on the male side—by definition dark-skinned, urban and undeserving. The former are exalted as the living incarnation of genuine American values, self-control, deferred gratification, subservience of life to labour; the latter is vituperated as the loathsome embodiment of their abject desecration, the 'dark side' of the 'American dream' of affluence and opportunity for all, believed to flow from morality anchored in conjugality and work. And the line that divides them is increasingly being drawn, materially and symbolically, by the prison.

On the other side of that line lies an institutional setting unlike any other. Building on his celebrated analyses of Ancient Greece, classical historian Moses Finley has introduced a fruitful distinction between 'societies with slaves' and 'genuine slave societies.'[33] In the former, slavery is but one of several modes of labour control and the division between slave and free is neither impermeable nor axial to the entire social order. In the latter, enslaved labour is epicentral to both economic production and class structure, and the slave-master relation provides the pattern after which all other social relations are built or distorted, such that no corner of culture, society and self is left untouched by it. The astronomical overrepresentation of blacks in houses of penal confinement and the increasingly tight meshing of the hyperghetto with the carceral system suggests that, owing to America's adoption of mass incarceration as a queer social policy designed to discipline the poor and contain the dishonoured, lower-class African-Americans now dwell, not in a society with prisons as their white compatriots do, but in the *first genuine prison society* in history.

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[33] 'Slavery', *International Encyclopaedia of the Social Sciences*, New York 1968.